

76CV00517-EHN-MO

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MICHAEL IKELIONWU,

96 CV 519

Plaintiff,

MEMORANDUM

AND

-against-

ORDER

UNITED STATES OF AMERICA,

Defendant.

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MICHAEL IKELIONWU

No. 36252-052

F.C.I. Niagra Unit

P.O. Box 904

Raybrook, New York 12977-0300

plaintiff pro se.

ZACHARY W. CARTER, United States Attorney
Eastern District of New York

(Elliot M. Schachner, of counsel)

One Pierrepont Plaza

Brooklyn, New York 11201

for defendant.

NICKERSON, District Judge:

Plaintiff Michael Ikelionwu brought this action
against the United States for return of a wedding dress
allegedly belonging to him that was seized from one of
his associates at the time of their arrest. In a

Report and Recommendation dated December 3, 1996

Magistrate Judge Roanne L. Mann recommended that the court dismiss this action with prejudice because the action was barred by the doctrine of laches and because the government acted reasonably in disposing of the property. On March 25, 1997 this court adopted the Report and Recommendation and dismissed the action.

On August 5, 1998 the Court of Appeals found there had been no "inexcusable delay," and vacated the dismissal, remanding the action for further proceedings. The Court of Appeals affirmed the portion of the order holding that if plaintiff prevailed on his claim, (1) he would not be entitled to prejudgment interest and (2) the currency may be used to offset plaintiff's outstanding fine.

The action is hereby referred to Magistrate Judge Roanne L. Mann for Report and Recommendation in accordance with the decision of the Court of Appeals.

So ordered.

Dated: Brooklyn, New York
August , 1998

Eugene H. Nickerson, U.S.D.J.